

EXHIBIT 13

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION
4

5 CORY SPENCER, an individual;) Case No.
6 DIANA MILENA REED, an) 2:16-cv-02129-SJO-RAO
7 individual; and COASTAL)
8 PROTECTION RANGERS, INC., a)
9 California non-profit public)
10 benefit corporation,)

11 Plaintiffs,)

12 v.)

13 LUNADA BAY BOYS; THE)
14 INDIVIDUAL MEMBERS OF THE)
15 LUNADA BAY BOYS, including)
16 but not limited to SANG LEE,)
17 BRANT BLAKEMAN, ALAN JOHNSTON)
18 aka JALIAN JOHNSTON, MICHAEL)
19 RAE PAPAYANS, ANGELO FERRARA,)
20 FRANK FERRARA, CHARLIE)
21 FERRARA and N.F.; CITY OF)
22 PALOS VERDES ESTATES;)
23 CHIEF OF POLICE JEFF KEPLEY,)
24 in his representative)
25 capacity; and DOES 1-10,)

Defendants.)

Deposition of CORY ELDON SPENCER, taken
on behalf of defendants, at 777 South Figueroa Street,
Suite 4550, Los Angeles, California, beginning at
10:01 a.m. and ending at 6:35 p.m., on Tuesday,
October 11, 2016, before Carmen R. Sanchez,
Certified Shorthand Reporter No. 5060.

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1 APPEARANCES:

2 For the Plaintiffs:

3 HANSON BRIDGETT LLP

BY: KURT A. FRANKLIN, ESQ.

4 425 Market Street

Twenty-sixth Floor

5 San Francisco, California 94105

Telephone: (415) 777-3200

6 Facsimile: (415) 541-9366

E-mail: kfranklin@hansonbridgett.com

7 HANSON BRIDGETT LLP

8 BY: TYSON M. SHOWER, ESQ.

LANDON D. BAILEY, ESQ.

9 500 Capitol Mall

Suite 1500

10 Sacramento, California 95814

Telephone: (916) 442-3333

11 Facsimile: (916) 442-2348

E-mail: tshower@hansonbridgett.com

12 lbailey@hansonbridgett.com

(NOT PRESENT)

13 OTTEN LAW PC

14 BY: VICTOR OTTEN, ESQ.

3620 Pacific Coast Highway

15 Suite 100

Torrance, California 90505

16 Telephone: (310) 378-8533

Facsimile: (310) 347-4225

17 E-mail: vic@ottenlawpc.com

(TELEPHONIC APPEARANCE)

18
19
20 Continued
21
22
23
24
25

1 APPEARANCES (CONTINUED):

2 For the Defendants City of Palos Verdes Estates and
3 Chief of Police Jeff Kepley:

4 KUTAK ROCK LLP

5 BY: ANTOINETTE P. HEWITT, ESQ.

6 5 Park Plaza

7 Suite 1500

8 Irvine, California 92614-8595

9 Telephone: (949) 417-0999

10 Facsimile: (949) 417-5394

11 E-mail: Antoinette.Hewitt@KutakRock.com

12 For the Defendant Brant Blakeman:

13 VEATCH CARLSON, LLP

14 BY: JOHN P. WORGUL, ESQ.

15 1055 Wilshire Boulevard

16 Eleventh Floor

17 Los Angeles, California 90017

18 Telephone: (213) 381-2861

19 Facsimile: (213) 383-6370

20 E-mail: jworgul@veatchfirm.com

21 For the Defendant Michael Rae Papayans:

22 HAVEN LAW

23 BY: PETER T. HAVEN, ESQ.

24 1230 Rosecrans Avenue

25 Suite 300

Manhattan Beach, California 90266

Telephone: (310) 272-5353

Facsimile: (213) 477-2137

E-mail: peter@havenlaw.com

For the Defendant Sang Lee:

LEWIS BRISBOIS BISGAARD & SMITH LLP

BY: TERA A. LUTZ, ESQ.

633 West 5th Street

Suite 4000

Los Angeles, California 90071

Telephone: (213) 250-1800

Facsimile: (213) 250-7900

E-mail: Tera.Lutz@lewisbrisbois.com

Continued

1 APPEARANCES (CONTINUED):

2 For the Defendant Sang Lee:

3 BOOTH, MITCHEL & STRANGE

BY: DANIEL M. CROWLEY, ESQ.

4 707 Wilshire Boulevard

Suite 4450

5 Los Angeles, California 90017

Telephone: (213) 738-0100

6 Facsimile: (213) 380-3308

E-mail: dmcrowley@boothmitchel.com

7
8 For the Defendants Angelo Ferrara; N.F.
appearing through [Proposed] Guardian Ad Litem,
9 Leonora Ferrara Attorney for Petitioner:

LAW OFFICES OF MARK C. FIELDS, APC

10 BY: MARK C. FIELDS, ESQ.

333 South Hope Street

11 Thirty-fifth Floor

Los Angeles, California 90071

12 Telephone: (213) 617-5225

Facsimile: (213) 629-4520

13 E-mail: fields@markfieldslaw.com

(TELEPHONIC APPEARANCE AND PERSONAL APPEARANCE)

14
15 For the Defendants Frank Ferrara and Charlie Ferrara:

BREMER WHYTE BROWN & O'MEARA

16 BY: LAURA L. BELL, ESQ.

21271 Burbank Boulevard

17 Suite 110

Woodland Hills, California 91367

18 Telephone: (818) 712-9800

Facsimile: (818) 712-9900

19 E-mail: lbell@bremerwhyte.com

(TELEPHONIC APPEARANCE)

20
21
22
23
24 Continued

1 APPEARANCES (CONTINUED):

2 For the Defendant Brant Blakeman:

3 BUCHALTER NEMER, APC

BY: ROBERT S. COOPER, ESQ.

4 1000 Wilshire Boulevard

Suite 1500

5 Los Angeles, California 90017

Telephone: (213) 891-5230

6 Facsimile: (213) 896-0400

E-mail: rcooper@buchalter.com

7 (TELEPHONIC APPEARANCE)

8 For the Defendant Angelo Ferrara:

9 THE PHILLIPS FIRM

BY: MATTHEW E. VOSS, ESQ.

10 800 Wilshire Boulevard

Suite 1550

11 Los Angeles, California 90017

Telephone: (213) 244-9913

12 Facsimile: (213) 244-9915

E-mail: mvoss@thephillipsfirm.com

13 (TELEPHONIC APPEARANCE)

14 For the Defendant Alan Johnston aka Jalian Johnston:

15 LAW OFFICES OF J. PATRICK CAREY

BY: J. PATRICK CAREY, ESQ.

16 1230 Rosecrans Avenue

Suite 300

17 Manhattan Beach, California 90266

Telephone: (310) 526-2237

18 Facsimile: (310) 526-2237

E-mail: pat@patcareylaw.com

19 (NOT PRESENT)

I N D E X

WITNESS

CORY ELDON SPENCER

Examination by: Page

MS. HEWITT 11, 305, 337

MR. FIELDS 217

MR. WORGUL 222, 306, 326, 343, 345

MS. LUTZ 306

MR. HAVEN 321, 336, 343

MR. FRANKLIN 344

E X H I B I T S

Defendants' Exhibit	Description	Page Introduced	Page Marked
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Exhibit 40	Copy of a document entitled, "DEFENDANTS CITY OF PALOS VERDES ESTATES AND CHIEF OF POLICE JEFF KEPLEY'S NOTICE OF DEPOSITION TO PLAINTIFF CORY SPENCER"	21	21
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Exhibit 41	Copy of a document entitled, "CLASS ACTION COMPLAINT AND JURY DEMAND"	29	29
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I N D E X (CONTINUED)

E X H I B I T S

Defendants' Exhibit	Description	Page Introduced	Page Marked
Exhibit 42	Copy of an E-mail dated March 05, 2016, from Jeff Kopley to Mark Velez; Bates-stamped CITY1807	158	158
Exhibit 43	Color copy of a photograph taken at the deposition of Cory Eldon Spencer depicting his hand and scar	306	306
Exhibit 44	Copy of a drawing made on yellow legal pad paper by Mr. Worgul during the deposition of Cory Eldon Spencer	334	334

Continued

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1 Los Angeles, California

2 Tuesday, October 11, 2016, 10:01 a.m. - 6:35 p.m.

3
4 THE REPORTER: Pursuant to the Federal Rules of
5 Civil Procedure, I am required to state the following:

6 My name is Carmen R. Sanchez, a
7 certified court reporter with Hahn & Bowersock, A
8 Veritext Company, located at 20 Corporate Park,
9 Suite 350, Irvine, California.

10 This is the deposition of
11 Cory Eldon Spencer, in the matter of Cory Spencer,
12 et al., vs. Lunada Bay Boys, et al., beginning at
13 10:01 a.m., on Tuesday, October 11, 2016.

14 Counsel, will you please state your
15 appearances for the record.

16 MS. HEWITT: Antoinette Hewitt for the city.

17 MR. WORGUL: John Worgul for defendant
18 Brant Blakeman.

19 MR. HAVEN: Peter Haven for defendant
20 Michael Papayans.

21 MR. CROWLEY: Daniel Crowley with Booth,
22 Mitchel & Strange on behalf of Sang Lee.

23 MS. LUTZ: Tera Lutz for defendant Sang Lee.

24 MR. COOPER: Robert S. Cooper, Buchalter Nemer
25 for defendant Brant Blakeman telephonically.

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Hahn & Bowersock, A Veritext Company
800.660.3187

Exhibit C, page 87

1 MR. FIELDS: Mark Fields for Angelo Ferrara and
2 N.F. telephonically.

3 MS. BELL: Laura Bell for Frank Ferrara and
4 Charlie Ferrara appearing telephonically.

5 MR. FRANKLIN: Kurt Franklin on behalf of
6 Mr. Spencer and the other plaintiffs in this matter.
7 And if I can, just as a matter of housekeeping, the
8 plaintiffs would request under FRCP 30, the ability to
9 review the transcript within 30 days.

10
11 CORY ELDON SPENCER,
12 called as a witness by and on behalf of the
13 defendants, and having been first duly sworn
14 by the Certified Shorthand Reporter, was examined and
15 testified as follows:

16
17 EXAMINATION

18 BY MS. HEWITT:

19 Q Would you please state and spell your
20 name for the record.

21 A Cory Spencer.

22 This is a microphone? Cory Spencer, C-o
23 -- Cory Eldon Spencer, C-o-r-y E-l-d-o-n S-p-e-n-c-e-r.

24 Q Have you ever given a deposition before?

25 A I have.

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1 THE WITNESS: Let me just say this. Around
2 2002 or 2003, somewhere in the early 2000s, I was
3 almost ecstatic when my police chief was looking for
4 volunteers of officers to go surf at Lunada Bay to take
5 care of a problem that supposedly either the police
6 chief or the city at the time wanted to take care of,
7 and I was going to go in the capacity of a police
8 officer; be able to undercover surf in a place that I
9 wanted to surf since I was probably 15 years old and
10 take care of a bullying problem. I thought at that
11 time, hey, these guys are going to do it. You know,
12 this is -- this is going to happen, and I'm going to be
13 a part of it. And that was -- that was exciting to me.
14 Yeah, I was excited. I thought at that time it was
15 going to be taken care of. But, for whatever reason,
16 that undercover operation, or whatever they were
17 planning on doing with us, was called off; and, again,
18 nothing happened. That was a letdown.

19 BY MS. HEWITT:

20 Q Okay. Anything else?

21 MR. FRANKLIN: Vague and ambiguous.

22 THE WITNESS: Anything else about what?

23 BY MS. HEWITT:

24 Q Is there anything -- can you read back
25 the question?

1 BY MS. HEWITT:

2 Q And 'cause I don't know. I don't
3 understand undercover operations.

4 A Well, I think the expectation speaks for
5 itself on the undercover operation. You go in
6 undercover expecting that things that have been
7 reported for the last 30 or 40 years would happen to
8 you as an undiscovered outsider; and you, being an
9 on-duty police officer, would be able to make and
10 effect a proper arrest or a citation and send a message
11 that -- when I say, "we," meaning "we" as the
12 Palos Verdes Estates police are not going to tolerate a
13 gang in the water and on the beach, and the problem
14 would go away. Almost instantaneously within a couple
15 weeks this could be cleared up. We would not be
16 sitting here today.

17 Q And is that based on your experience as
18 a police officer that you know it would go away in two
19 weeks?

20 A I believe that it would, yes.

21 Q And what experience is that based on?

22 A Going into areas; taking care of
23 problems; what I've done for the past 20 years. You
24 address community issues, quality of life issues, and
25 you take care of them by using the law on your side,

1 beach localism at Lunada Bay?

2 A Well, I think anybody -- well, when did
3 I?

4 Q Yes.

5 A Let's go back to that. When you see --
6 you question why you can't go there; and, then, you
7 start inquiring in the surfing world why you can't go
8 there, and you hear the stories that have gone on for
9 as long as they have up into that point. You
10 immediately get fearful. You don't want to go
11 somewhere where you're going to get your tires slashed;
12 your windows egged; your property thrown in the ocean.
13 Those were the stories that you get; so, you become
14 fearful right away, right? Or I did.

15 Q My question was when this happened.

16 A Shortly after I questioned from the
17 article why can only a few enjoy it.

18 Q And who did you question?

19 A I don't -- I didn't question anybody
20 that I can recall specifically. You just -- you just
21 hear stories in the surfing world about the place
22 through people, word of mouth. I don't recall an
23 individual.

24 Q Okay. So, going back to the surfing
25 article you read as a mid-teen, judging from what you

1 A Yes.

2 Q Okay.

3 How many times?

4 A I can't recall a specific number, but I
5 can tell you that, of course, you see it in magazines.
6 You want to see it in person; and, you know, you want
7 to go and investigate, I guess, for lack of a better
8 term; so, you just drive up and check it out.

9 Q Are you able to estimate for me how many
10 times you went to Lunada Bay before you turned 20?

11 A Oh, before I turned 20? If I were to
12 give you an estimation, probably four to five times.

13 Q Okay.

14 During any of the four or five times you
15 went there before you turned 20, did you experience
16 anything that made you fearful of Lunada Bay?

17 MR. FRANKLIN: Vague and ambiguous.

18 THE WITNESS: Fearful? Just going there I was
19 in fear. Just driving up the Palos Verdes Peninsula
20 road, you know, or whatever road it is to get up there,
21 you're a little afraid because you've heard stories.

22 MS. HEWITT: Okay.

23 Q During the four or five times you went
24 to Lunada Bay before you turned 20, did you experience
25 anything that made you fearful of Lunada Bay?

1 MR. FRANKLIN: Vague and ambiguous.

2 THE WITNESS: I don't know how to answer that
3 any other way than I already did. When you drive up,
4 you -- because of the lure, the stories, you feel
5 fearful of, hey, is this real? Is this -- is this
6 place really like they say it is? Am I going to get my
7 property vandalized? Am I going to get, you know, in
8 some type of confrontation? That's a fear.

9 MS. HEWITT: Okay.

10 Let's break that down then. Of the four
11 to five times you went to Lunada Bay before you turned
12 20, looking at the first time you went, did you
13 experience any intimidation there?

14 MR. FRANKLIN: Vague and ambiguous.

15 THE WITNESS: No. I was never, per se,
16 confronted by anybody; so I was -- I wasn't intimidated
17 by any individual.

18 BY MS. HEWITT:

19 Q Okay. That same time, did you
20 experience any vandalism?

21 A No.

22 Q Okay.

23 Did anything occur during that first
24 visit to Lunada Bay -- to Lunada Bay, excuse me, before
25 you turned 20, that caused you to later be fearful of

1 MR. FRANKLIN: Vague and ambiguous.

2 THE WITNESS: I don't know how to answer that
3 any other way than I already did. When you drive up,
4 you -- because of the lure, the stories, you feel
5 fearful of, hey, is this real? Is this -- is this
6 place really like they say it is? Am I going to get my
7 property vandalized? Am I going to get, you know, in
8 some type of confrontation? That's a fear.

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11 to five times you went to Lunada Bay before you turned
12 20, looking at the first time you went, did you
13 experience any intimidation there?

14 MR. FRANKLIN: Vague and ambiguous.

15 THE WITNESS: No. I was never, per se,
16 confronted by anybody; so I was -- I wasn't intimidated
17 by any individual.

18 BY MS. HEWITT:

19 Q Okay. That same time, did you
20 experience any vandalism?

21 A No.

22 Q Okay.

23 Did anything occur during that first
24 visit to Lunada Bay -- to Lunada Bay, excuse me, before
25 you turned 20, that caused you to later be fearful of

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1 coming back to Lunada Bay?

2 A No.

3 Q Okay.

4 During the second time you visited
5 Lunada Bay before you turned 20, did you experience any
6 intimidation?

7 A We're going time by time?

8 Q Yes.

9 A Let me just save you the, I guess, the
10 hassle of going through. They were just every time you
11 would drive up the same way and just check it out, and
12 nothing that the line of questioning that we went
13 through happened in each one of those four to five
14 times.

15 Q Okay.

16 During the four to five times?

17 A Does that make sense?

18 Q Sure. Let me just restate it, and I
19 appreciate that.

20 During the four to five times you
21 visited Lunada Bay before you turned 20, you did not
22 experience any intimidation --

23 MR. FRANKLIN: Vague and ambiguous.

24 BY MS. HEWITT:

25 Q -- is that correct?

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1 A Correct.

2 Q You did not experience any vandalism; is
3 that correct?

4 A Correct.

5 Q All right. And you did not experience
6 anything that caused you to later to be fearful of
7 later coming back to Lunada Bay; is that correct?

8 A Not on those times; correct.

9 Q Okay.

10 All right. If we go to the next
11 sentence, it starts at line 13, sir (as read):

12 "But in January 2016, Spencer
13 worked up his courage to surf Lunada Bay
14 during a large winter swell."

15 Going to a time period before
16 January 2016, is it true that you had never surfed
17 Lunada Bay before that time?

18 A That's true.

19 Q Okay. So when you visited Lunada Bay
20 before you turned 20, you went to Lunada Bay but did
21 not surf; correct?

22 A That's correct.

23 Q All right.

24 When you went during those four to five
25 times, did you go on the beach?

1 in January 2016?

2 A Well, there's safety in numbers. You
3 know, I work in a job where it's not safe all the time,
4 and we're safer in numbers, and this movement kind of
5 resonated with me because if you have a large number of
6 people who want to go and enjoy the beach peacefully
7 and safely, then, I thought that that would be probably
8 No. 1, my -- my safest opportunity to go there, and
9 they had a track record of doing it I think the year
10 prior. And from what I understand, there was minor
11 incidents with that group but nothing to the extent of
12 the stories that I heard --

13 Q Okay.

14 A -- about fights and vandalism and stuff
15 like that so ...

16 Q Okay.

17 Let me ask that this way. Was it your
18 idea to go to Lunada Bay in January of 2016 unprompted
19 by anybody else?

20 A On that time, yeah. I called Chris or
21 texted him and said, "Hey, there's a swell coming. I'm
22 Cory. I'm Tom's friend. Let's get some people
23 together and go surf."

24 Q Okay. And did he respond?

25 A Yes.

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1 Q And how?

2 A He got all excited and said, "I'll put
3 the word out, and let's -- we'll get a few of our Aloha
4 people and go have some good, peaceful, clean surfing,
5 hopefully."

6 Q Okay.

7 Did you have, in your mind, how many
8 people you wanted to go with in order to get up the
9 nerve to go to Lunada Bay that day?

10 A In my mind?

11 Q Yes.

12 A If it were a perfect scenario for me,
13 I'd like 100 -- at least 100 guys to go down there.

14 Q Okay. Bad question.

15 If only Chris had gone with you, would
16 you have gone?

17 A No.

18 Q All right.

19 So, eventually, you and Chris agreed to
20 go; correct?

21 A Correct.

22 Q Did he tell you how many other people
23 were going to come before you actually went?

24 A No.

25 Q Okay.

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1 A I was not aware.

2 Q Okay. All right.

3 Did you -- oh, prior to the day you
4 actually went in January of 2016, had you ever
5 communicated with anybody at the City of Palos Verdes
6 about any problems with Lunada Bay, including violence,
7 intimidation, fear, anything like that?

8 A Yes.

9 MR. FRANKLIN: Vague and ambiguous.

10 BY MS. HEWITT:

11 Q Okay. On how many occasions?

12 A Prior to going down there that day?

13 Q Yes.

14 A I think I contacted the chief first. I
15 don't recall getting a response from him; and, then,
16 kind of reading their organizational chart, and I
17 believe I contacted a captain, and I don't recall his
18 name.

19 Q Okay. And what did you say -- or not
20 what did you say. How did you contact him?

21 A I don't know if the first time was
22 initially E-mail or a call. It could have been either
23 one, and I just requested, "Hey, there's a group of us.
24 I'm sure you're aware of the group. We're going down
25 there this date. Can we get some extra patrol?"

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1 Q Okay.

2 And did you get a response?

3 A Yes. There was dialogue, and I don't
4 remember the exact -- I think it was mostly after that
5 through E-mail. I don't recall ever speaking -- I
6 don't recall if I ever spoke to him on the phone or
7 not, but I know most was through E-mail. That's my
8 best recollection right now.

9 Q Okay.

10 A Can I get a drink or --

11 Q Sure. You know what? Why don't we take
12 a little break right now. We're going a little while.

13 A My mouth is dry.

14 MS. HEWITT: I'll bet.

15 Let's go off the record.

16 (A recess was taken at 11:31 a.m.
17 until 11:45 a.m.)

18 BY MS. HEWITT:

19 Q What city do you live in?

20 A I live in the City of Norco.

21 Q Okay.

22 Oh, that's quite a commute to
23 El Segundo.

24 A Yes.

25 Q Okay.

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1 Q Okay.

2 What are the three places that you surf
3 at most often in any given year?

4 A Most often any given year, I would say
5 El Porto in Manhattan Beach, Oceanside Harbor in
6 San Diego County, and I would really like it to be
7 Lunada in the winter if it was safe to go there, and I
8 think that's what this claim is about; so, that's not
9 one of them yet. I could say Huntington in
10 Orange County.

11 Q Okay. Those are all fairly long drives
12 from Norco. Do you often -- do you go directly from
13 home when you go surf at Manhattan Beach or Oceanside
14 or Huntington, or do you go to work first?

15 A It just depends if I'm at work or home.
16 And when I have time to go, I'll usually have a board
17 stored at work; a board at home.

18 Q Okay.

19 We were talking a little bit about
20 communications with the city prior to your actual visit
21 to Lunada Bay in January of 2016. Let me go back a
22 little bit on that as well.

23 We went over fairly exhaustively before
24 the four to five times you went to Lunada Bay up until
25 the time you were 20; and, then, the four to five times

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1 you went after that up until January 2016. During any
2 of those visits -- so, I guess it would be eight to ten
3 times that you visited prior to January 2016 -- did you
4 ever experience anything that you believed to be was
5 localism?

6 MR. FRANKLIN: Vague and ambiguous.

7 THE WITNESS: I'm going to say when I was on my
8 bike and you have a group of guys standing around kind
9 of looking at who's coming and going near the bluff, I
10 would say that would be a group of guys at their local
11 spot being locals, you know. Did they threaten;
12 intimidate me? Not -- it was a little intimidating,
13 you know. Did they vandalize any of my property? No.
14 Did they get all up in my face? No. But they were
15 there and looking at who's coming and going.

16 BY MS. HEWITT:

17 Q And they didn't speak to you; correct?

18 A No.

19 Q And they didn't approach you?

20 A No.

21 Q And have you seen groups of guys like
22 that at other beaches?

23 A Like --

24 Q Just like you described, a group of
25 guys?

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1 A Yeah. I -- you see guys hanging out at
2 the parking lots and before they're going to get in the
3 water or after they get out of the water.

4 Q Okay.

5 So, talking a little bit about your
6 communications, I think you said with Captain Velez.

7 A That's the name.

8 Q Okay.

9 Did you -- actually, I don't know if you
10 said, "Velez." Do you think it was Velez?

11 A You just did, but you refreshed my
12 memory. Thank you very much.

13 Q Okay. I didn't mean to. Okay. So, you
14 believe it was Captain Velez; all right.

15 A Yes.

16 Q And you had testified that there was
17 dialogue, and I'm not sure if you meant dialogue
18 through E-mail or something on the phone. Can you
19 clarify that?

20 MR. FRANKLIN: Asked and answered.

21 THE WITNESS: Can I clarify it?

22 MS. HEWITT: Yeah.

23 THE WITNESS: I don't recall if I -- I don't
24 recall speaking to him, but I may have. The speaking
25 and the E-mail dialogue -- I know I E-mailed him for

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1 sure; but, as far as on the phone, I don't recall.

2 BY MS. HEWITT:

3 Q All right. And I think you said that
4 you requested extra patrols; correct?

5 A Yes.

6 Q All right.

7 Did any -- were any extra patrols
8 provided?

9 MR. FRANKLIN: Vague and ambiguous; lacks
10 foundation.

11 BY MS. HEWITT:

12 Q Well, let me ask you this. Okay. So,
13 you requested extra patrols for your visit in January
14 of 2016; is that correct?

15 A Correct.

16 Q Okay.

17 Do you know if your request was granted?

18 MR. FRANKLIN: Lacks foundation.

19 THE WITNESS: I can only tell you what I
20 experienced, that there was a group of officers that
21 was there after I was out of the water.

22 BY MS. HEWITT:

23 Q On January 2016?

24 A January 29th, 2016.

25 Q I'm sorry. Thank you.

1 Q You don't remember a name or anything
2 like that?

3 A I don't remember a name.

4 Q Okay. Fair enough.

5 All right. So, the next sentence in the
6 complaint starting at the end of 17, sir, and going to
7 18 states (as read):

8 "Upon arrival, members of the
9 Defendant LUNADA BAY BOYS told him, 'you
10 can't surf here kook.'"

11 Okay. About how long after you arrived
12 do you recall that occurred?

13 A Almost instantaneously after you get
14 your boards; so, after we arrived, I would say,
15 approximately, within 20 to 30 minutes.

16 Q Okay.

17 Were you already getting ready to surf?

18 A Yes.

19 Q Okay. All right. And, then, I forgot
20 to ask you. You said, "when we arrived." Who was the
21 "we"?

22 A Chris and security guard --

23 Q Okay.

24 A -- guy.

25 Q So, in the end, it was just you two? It

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1 wasn't the six to eight?

2 A Not in the beginning, no.

3 Q Okay. So, when you went down to prepare
4 to surf, it was you and Chris and the security guard?

5 MR. FRANKLIN: Misstates testimony.

6 BY MS. HEWITT:

7 Q Is that right? Or if it's wrong, go
8 ahead and tell me.

9 A Chris and I and the security guard.

10 Q Okay.

11 A Yes.

12 Q And did the security guard stay by the
13 cars?

14 A He stayed up with the cars.

15 Q Okay. All right.

16 When you first got to the beach that day
17 and you're getting ready to surf, and you heard someone
18 say, "You can't surf here kook," were you able to
19 understand or were you able to identify who said that
20 to you?

21 A No.

22 Q Okay.

23 Did you see a group of people from whom
24 it came from?

25 A A group of people?

Page 99

1 Q Did you tell the direction where it came
2 from or anything like that?

3 A To my north.

4 Q Okay. But you couldn't tell who said
5 it?

6 A No.

7 Q Oh, okay. I see.

8 A It's -- it was kind of sunrise, dawn.

9 Q Okay.
10 When you first got down to the beach,
11 could you see any other people there?

12 A There was a few people, and I'm assuming
13 members of the Bay Boys at the -- way out at the point
14 on the fort.

15 Q About how many people -- I'm sorry. Did
16 I interrupt you?

17 A I couldn't recall a specific number but
18 just a few.

19 Q More or less than five?

20 A I would say right around five.

21 Q Okay. And about how far were you from
22 those -- those people when you heard the, "You can't
23 surf here kook"?

24 MR. FRANKLIN: Assumes facts not in evidence.

25 THE WITNESS: Yeah, I didn't first hear that up

Page 100

1 Q Okay.

2 Can you tell me what you did up until
3 the point when you were on your second wave?

4 MR. FRANKLIN: Vague and ambiguous.

5 THE WITNESS: What do you mean?

6 BY MS. HEWITT:

7 Q So you heard the statement, "kook"?

8 A Okay.

9 Q And you said you were going to ignore
10 them?

11 A And several others.

12 Q What were the other things that you
13 heard?

14 MR. FRANKLIN: Calls for a narrative.

15 THE WITNESS: Let's see. Specifically, you
16 know, "How many other places did you pass to get here
17 to surf?"

18 Can we say expletives or --

19 MS. HEWITT: Sure.

20 THE WITNESS: You want --

21 MS. HEWITT: Sure.

22 THE WITNESS: You know, why -- basically, "Why
23 don't you fucking go home, you fucking kook"; and I
24 mentioned already, "How many other good places did you
25 pass to come here?" Those are the ones that stand out.

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1 BY MS. HEWITT:

2 Q Were there others?

3 A There may have been.

4 Q And did these all occur within those 20
5 minutes?

6 A Yes.

7 Q Okay.

8 Did any --

9 A That's how it is when you go there.

10 Q Okay.

11 Did anything else occur in those first
12 20 minutes after you arrived at Lunada Bay that caused
13 fear?

14 MR. FRANKLIN: Vague and ambiguous.

15 MS. HEWITT: Well, actually, I'm going to
16 withdraw that.

17 Q Did these statements cause fear for you?

18 A Yeah.

19 Q Okay.

20 A Yes. Sorry.

21 Q Did anything else occur in the 20
22 minutes that caused fear for you?

23 A Yes.

24 Q What was that?

25 A More -- more of the same statements by a

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1 specific individual, who I could identify. I don't
2 know his name. Same things. It was more of a -- more
3 of a closer, I guess, encounter with the same language
4 all the way down the trail; jumping into the water;
5 same individual just keep, you know, heckling.

6 Q And when you say you could identify them
7 but you don't know their name, do you mean you can
8 describe what they look like?

9 A This guy, I can describe what he looks
10 like.

11 Q Okay.
12 What did he look like?

13 A He was a male white, probably 45 to 50
14 years old; around six foot; one -- probably 185; black
15 wetsuit and a hood and a colorful surfboard that was
16 attached to his arm -- meaning he was holding it,
17 yellow, orange, blue; and I saw him prior to that --
18 so, I saw that same figure, not knowing if it's
19 specifically him but on a good guess, with the same
20 board, that that guy was walking across the bluff is
21 when he first picked up on us, and he was fully
22 clothed, light-blue sweatshirt with a hood, blue jeans,
23 tennis shoes, and I don't recall if he had a hat or
24 not, but dark hair.

25 Q Okay. All right.

1 Anything else occur in those first 20
2 minutes that caused you fear?

3 A No. That was -- that was it. The name
4 calling and the telling us to get out of there, and
5 that was all that I can recall now.

6 Q Okay.

7 Between the end of that first 20 minutes
8 and the time when you were on your second wave of
9 Lunada Bay, did anything else occur to cause you fear?

10 A Yes.

11 Q Okay. What was that?

12 A A very uncomfortable feeling when the --
13 who I now know -- did not know at the time -- was
14 Defendant Blakeman paddling around myself and Chris
15 and, more specifically, Chris in a very tight circle;
16 blocking Chris from getting any waves; never saying a
17 word; just looking -- staring at both he and I. That
18 was a little weird; fearful. I've never experienced
19 that before in my life in the water like -- kind of
20 like a circling you like a shark. You know, it was
21 weird -- just weird.

22 Q Okay. And was that during while you're
23 getting ready to catch a first wave?

24 A Yeah -- yes, from --

25 Q Okay.

1 A -- basically, the time we got in the
2 water.

3 Q Okay.
4 Anything else up until the time of your
5 second wave?

6 A Same comments from the original guy I
7 described, talking to -- they were talking to some guys
8 on the point in the fort back and forth; and, then, a
9 couple guys in the water, one of them being Blakeman
10 and I don't -- I just know they were talking to each
11 other. They were -- it was like you could tell they
12 knew each other.

13 Q Okay.

14 A And that was, again, a little
15 unsettling.

16 Q Okay.

17 In the next sentence, it says, "Once in
18 the water ..." -- looking at your -- at the complaint
19 (as read):

20 "Once in the water, on his
21 second wave at Lunada Bay, a member
22 of Defendant LUNADA BAY BOYS intentionally
23 ran Spencer over with his surfboard and
24 sliced open Spencer's hand."

25 Is that true?

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1 A Yes.

2 Q All right.

3 Which hand was that?

4 A The right wrist.

5 Q Okay.

6 A With about a half-inch scar.

7 Q Do you mind showing it to me?

8 A Right there.

9 Q Okay. Okay. Thank you.

10 MR. WORGUL: Do you mind if I take a picture of
11 it?

12 THE WITNESS: I'd have to refer to counsel.

13 MR. FRANKLIN: That's fine.

14 THE WITNESS: Go ahead.

15 MS. LUTZ: Sorry. Can I see? Thank you.

16 MR. WORGUL: Mr. Spencer, if you don't mind.

17 And could you just take the pen and just point to where
18 it is so we can know right where you're showing us?

19 (Whereupon, the witness complies.)

20 MR. WORGUL: Okay. Thank you.

21 THE WITNESS: Uh-huh.

22 MS. HEWITT: Thank you, Mr. Spencer.

23 THE WITNESS: Yep -- yes.

24 MS. HEWITT: All right.

25 Q How did you determine that somebody

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1 intentionally ran you over with the surfboard?

2 A Well, how did I determine somebody
3 intentionally?

4 Q Well, that's a bad question. How do you
5 know that the person who ran you over with the
6 surfboard intentionally did that?

7 A I'm not in his brain; but I have surfed
8 for, you know, 30 years, and you can tell when somebody
9 locks eyes with you and is on one path, and they
10 specifically move their board and maneuver their body
11 to make their board go in another path that's directly
12 at you when they could go the more safer, more better
13 part of the wave being closer to the more critical part
14 of the wave, which is more enjoyable to surf than
15 aiming towards somebody paddling out to get back out to
16 the lineup. In my mind, I determined that, hey, this
17 guy tried to run me over.

18 Q Okay.

19 A That's how I determined it.

20 Q And what part of the surfboard cut your
21 hand?

22 A It would be one of -- not knowing which
23 one, the right or the left, of a -- I'm trying to
24 describe it for the court reporter and you, but it
25 would be a thruster setup or a three-scag model

1 surfboard, a surfboard having three fins or scags on
2 the bottom. I don't know which of those three traveled
3 over my right wrist and slit it open.

4 Q Okay.

5 When -- right after that occurred, what
6 was the next thing that you did? Or, rather, what did
7 you do?

8 A Well, I don't know how to -- we're not
9 describing how I got to that point, though.

10 Q No. Right after your hand was cut, what
11 was the next -- what did you do?

12 A After my hand was cut?

13 Q Yes.

14 A I continued paddling on my path to get
15 out to the lineup.

16 Q Okay. So this occurred --

17 A With that individual who ran -- just ran
18 me over; start berating me with comments of, you know,
19 "What are you" -- "What are you fucking doing out here?
20 I told you to go home. I should have ran you over.
21 Why are you paddling in the sun glare where I can't see
22 you?" And that's it. "I should have ran you over."

23 Q Did you get knocked off your surfboard?

24 A So now we're backing up to the point --

25 Q Correct, we are.

1 A Okay. So once we locked eyes and I saw
2 him veer and steer his board in my direction to -- to
3 run over myself, I was paddling west out to the ocean.
4 He was coming in east towards the shore, and I rolled
5 off the left side of my board, and my hand was up --
6 left high up on top of my board, and that's when he ran
7 over the wrist.

8 Q Okay.

9 Did you continue to surf after that
10 occurred?

11 A Yes.

12 Q Did you say anything to the person whose
13 surfboard cut your hand?

14 A After he made the comment that, "I
15 should have ran you over," I says, "Well, you did," and
16 I held up my hand and showed him, and that's when he
17 said, you know, "Why are you paddling where I can't see
18 you? You shouldn't paddle in the sunlight," stuff like
19 that. Then I kept paddling off.

20 Q Were you fearful of being further
21 injured after that point?

22 A That's an understatement.

23 Q So is the answer yes?

24 A Yes.

25 Q Okay.

1 Did you feel that what had occurred to
2 you getting your hand cut and the way it happened was a
3 crime?

4 A I know it was a crime.

5 Q Did you tell him it was a crime and that
6 you were a police officer?

7 A I did not.

8 Q Why not?

9 A The way his explanation was going down
10 the road of, basically, avoiding taking any
11 responsibility for his actions; blaming it on the sun;
12 blaming, you know, me paddling where I'm not supposed
13 to be paddling -- I was paddling exactly where you're
14 supposed to paddle to avoid injury; to avoid conflict
15 with any other surfers. I was paddling back to the
16 channel, which basically gets away from the critical
17 part of the wave, which is where he should have been
18 surfing when he redirected his path to run me over.

19 You know, in my opinion, yeah, it was a
20 crime. Did I report it? It's going to be with no
21 witnesses there; no police officers in the water, as
22 there could have been; no police officers down on the
23 beach, as there could have been; on the fort, as there
24 could have been; nothing to corroborate my story, it
25 would have been a "He said ..."; "He said ..." go

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1 nowhere thing.

2 Q Do you feel that was the case even
3 though you're a police officer?

4 A I don't get it.

5 Q Did you think that your -- your
6 recitation of what had happened would carry more weight
7 since you're a police officer?

8 MR. FRANKLIN: Calls for speculation.

9 THE WITNESS: You know, when I'm not on duty,
10 the best thing I can be is a good witness, and that's
11 how I've lived the last 20-some years. I don't -- I
12 don't ever throw out off duty that I'm a police
13 officer; that you should treat me any different than
14 anybody else in the public because I'm a police
15 officer, and I didn't throw it out then. I didn't see
16 a need to. I didn't think that it would do any good
17 after the damage that was already done. You know, in
18 retrospect, you know, I don't know. It still would
19 have been a "He said ..."; "He said ..."; and I don't
20 see the need to engage that type of violent behavior
21 any more than it had already played itself out. The
22 best thing I thought I could do is paddle out like I
23 did and just get away from him.

24 MS. HEWITT: Okay.

25 Q Did you, at that point, have any fear

1 that the same thing would happen to your friend, Chris?

2 A Yeah -- yes.

3 Q Okay.

4 A It came alive. All those stories of 30
5 or 40 years just happened.

6 Q And given that you had that fear, did
7 you consider that in order to avoid it potentially
8 happening to Chris, that, perhaps, you should take some
9 actions as a police officer -- and I think you said
10 that you felt it was a crime -- to prevent that from
11 happening to Chris?

12 MR. FRANKLIN: Vague and ambiguous.

13 THE WITNESS: I felt the best plan of action
14 was to stay clear of these guys, especially since they
15 just assaulted us. I've got no radio. I've got no
16 handcuffs. I've got no gun; no bullet-proof vest. I'm
17 not a police officer out there. I'm a citizen; okay?
18 And the best plan of action was to avoid them; and that
19 was almost, I mean, impossible, when you got a guy
20 circling around you -- not the guy that ran me over but
21 they're all -- they all know each other, and here's the
22 guy that just injured me. He knows his buddy is
23 circling my friend; and, so, it's like let's get out of
24 here; so we caught one more wave after that; and, then,
25 we decided that was -- it's getting too crazy out here,

1 and more and more started showing up on the fort.

2 BY MS. HEWITT:

3 Q More and more what?

4 A Bay Boys.

5 Q Bay Boys?

6 A Yeah.

7 Q Okay.

8 How about the other people that were
9 supposed to come with you that day? Did they ever
10 appear?

11 A So, after we got out of the water, there
12 were -- and Chris knows all these guys. There was
13 probably maybe six more -- six more people up top that
14 were, you know, supposed to come out with us early, but
15 some guys have different ideas of early; so ...

16 Q Okay.

17 So after the second wave, you -- you and
18 Chris got out of the water; is that correct?

19 A Third. I caught one more. I don't
20 know. Chris caught a lot of waves. Before I would say
21 maybe -- I don't know how many he got. Probably double
22 what I got. I got three; so, maybe he got more. I
23 don't know. But after my third one is when we got out.

24 Q So after your hand was cut, how many
25 more waves did you surf?

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1 A One.

2 Q After you got cut, how many more waves
3 did Chris surf?

4 A I don't -- I don't know specifically.
5 It wasn't many. I couldn't give you a number. I was
6 kind of -- I was getting a little hypothermic. I was
7 bleeding. I wanted to kind of stay in the cool water
8 at least a little while longer to let the cold help
9 with the cut. I was getting a little frail mentally
10 'cause it was in my -- my fault was having a 10 to
11 12-year-old wetsuit in the middle of winter, and I got
12 cold; getting hypothermic. Now I'm injured, and I was
13 worried about getting one more wave and getting out of
14 there.

15 Q Did you tell Chris about your injury?

16 A Yes.

17 Q And when did you tell him that?

18 A Shortly after it happened.

19 Q All right.

20 While you were still in the water?

21 A Yes.

22 Q And did Chris tell you whether or not he
23 saw the incident once your hand was cut?

24 A I don't recall if he saw it or not.

25 Q When you left the water, did you talk to

Page 115

1 Q Okay.

2 Now, with regard to what occurred to
3 you, any of the things that you described for that
4 January 2016 visit to Lunada Bay, is it correct that
5 you did not report that to the City of Palos Verdes
6 Estates Police Department?

7 MR. FRANKLIN: Vague and ambiguous.

8 THE WITNESS: Are you talking about my hand?

9 BY MS. HEWITT:

10 Q Yes, or anything that happened to you
11 that day?

12 A I did not request a formal police
13 report, no. I did not.

14 Q Okay.

15 Did you communicate to anybody at the
16 City of Palos Verdes Estates Police Department with
17 regard to what occurred to you that day at Lunada Bay?

18 MR. FRANKLIN: Vague and ambiguous.

19 THE WITNESS: Yes.

20 BY MS. HEWITT:

21 Q Okay. When was that?

22 A So, shortly after getting changed, I
23 noticed the group of police officers standing to my
24 south talking with what appeared to be another group of
25 newly-formed Bay Boys.

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1 So, the bay is a bay. There's a north
2 and a south end. The south group had, you know, trucks
3 and cars and guys standing kind of huddled around in a
4 group of guys, and the police officers were kind of
5 towards the south. They weren't right up next to the
6 group. And I did notice that a couple of police
7 officers appeared to be talking with a few members of
8 the group; and, so, I made a point, because there was,
9 in my opinion -- and I don't know if it was directed by
10 my contacts with the captain or whatnot, but I noticed
11 the group of police officers; so, I personally wanted
12 to go over and tell them, you know, "Hey, thanks for
13 showing up," you know. "We appreciate it." You know,
14 and the one younger officer -- I don't know his name.
15 I didn't get any of their names. I, basically, you
16 know, told him what happened to me down there, you
17 know; showed him my hand and -- and I told him, I says,
18 you know, "The guy is going to claim sun glare and
19 whatnot." I just didn't want to -- I knew where it was
20 going to go. "He said ..."; "He said ..."; and, no, he
21 didn't offer to take a report. You know, he didn't ask
22 me to point anybody out. I know you're going to ask
23 all these questions; so, we'll just cut to the chase.

24 Q He did not offer to take a report;
25 right?

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1 A Right.

2 Q Okay.

3 A But, again, I thanked him for being down
4 there, you know, for what I felt a response to my
5 E-mail without knowing for sure.

6 Q Okay. And you said that you didn't ask
7 for a formal report; is that right?

8 A That's correct.

9 Q Okay.

10 A Just as I stated several minutes ago, it
11 wasn't ...

12 Q Did you ask for any sort of follow-up
13 action to be taken?

14 MR. FRANKLIN: Vague and ambiguous.

15 THE WITNESS: No, not that I can recall.

16 BY MS. HEWITT:

17 Q And you said that you showed them your
18 hand, or you told them about your hand?

19 A No, I showed them. I showed a lot of
20 people my hand.

21 Q You showed the police officers there
22 that day?

23 A Like I showed all of you here, I showed.

24 Q You showed the police officers?

25 A Yes.

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1 Q Did the police officers have any
2 recommendations for you?

3 A No.

4 Q And I'm sorry. Again, because I don't
5 know these things, but is not requesting a formal
6 report, is that the same thing as whether or not you
7 pressed charges?

8 A Yes.

9 Q Okay. So you didn't press charges?

10 A The reason you want a police report
11 taken is because you have a criminal action done to you
12 and you want --

13 Q Got it.

14 A -- to have them criminally, you know,
15 prosecuted.

16 Q Okay.

17 A That's why we take police reports.

18 Q Okay.

19 Other than the officers you spoke to
20 that day, did you speak to any other
21 City of Palos Verdes Estates police officers about what
22 occurred on January 29, 2016?

23 MR. FRANKLIN: Vague and ambiguous.

24 BY MS. HEWITT:

25 Q Let's start -- we'll start with, like,

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Los Angeles, California

Tuesday, October 11, 2016, 1:42 p.m.

-oOo-

A F T E R N O O N S E S S I O N

(All appearances remain as heretofore
noted in addition to Mark C. Fields, Esq.,
who has joined the proceedings.)

EXAMINATION (CONTINUED)

BY MS. HEWITT:

Q Going back on the record, Mr. Spencer,
welcome back.

A Thank you.

Q We were talking about the January 29,
2016 visit to Lunada Bay, and the police presence that
you're describing. I think -- I looked at the court
reporter's screen. I think you said that there were
two to three police officers there, including a
sergeant; is that right?

A Not in January.

Q Not in January. Okay. Some other time.
Okay. In January, can you describe to me -- can you
tell me how many Palos Verdes Estates police officers

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1 were there?

2 A I can't give you a for sure number, but
3 it was over the -- over the three that we just talked
4 about. I would say up to five or six.

5 Q Okay. And did you see any police cars?

6 A Yes.

7 Q Okay.

8 Did you see any other police-type
9 vehicles?

10 A Yes.

11 Q What were those?

12 A There was a motorcycle, and I don't know
13 what they call it, but it's equivalent to like we have
14 cadets; so and they -- I'm pretty sure they were in a
15 different color uniform. They weren't officers.

16 Q Like an explorer?

17 A Either parking -- not explorer, but they
18 were either a cadet, a police service officer, or like
19 a parking -- I don't recall.

20 Q Okay. And were the police service/cadet
21 people, are those included in the three to five to six
22 that you saw?

23 A Yes.

24 Q Okay.

25 How many police cars did you see?

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1 A Probably -- well, approximately, three
2 cars that were actual black-and-whites.

3 Q Okay.

4 Did you see any other cars that you
5 believe were PVE police that that were not
6 black-and-whites?

7 A Motorcycles.

8 Q Okay.

9 How many motorcycles did you see?

10 A Just one motorcycle.

11 Q Okay.

12 When you left that day in January of
13 2016, were the police personnel that you just described
14 to me still there?

15 A Yes.

16 Q Okay.

17 When you left, did Chris Taloa leave at
18 the same time?

19 A No.

20 Q Okay.

21 Do you recall if Diana Milena Reed
22 stayed after you left?

23 A Yes. I left before anyone else.

24 Q Okay. All right.

25 Did you communicate to the

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1 PVE Police Department about the January 29, 2016

2 incident by phone to anybody?

3 A What incidents?

4 Q What occurred on January 29, 2016, any
5 part of it?

6 A In regards to?

7 Q What occurred to you on that day.

8 A No.

9 Q Okay.

10 How about with regard to -- how about by
11 E-mail?

12 A I don't recall doing so, no.

13 Q How about by letter, snail mail?

14 A No. I am advanced enough. I don't
15 really send letters anymore.

16 Q All right.

17 Did you post on social media of any
18 type --

19 A No.

20 Q --specifically with regard to that
21 date? No?

22 A No.

23 Q Okay. And I should have been a little
24 clearer -- go ahead.

25 A No, social media, no.

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1 Q Okay.

2 Did you post on any city-related sites
3 Facebook posts? I know you're not on Facebook, but any
4 sort of tweeting at the city, anything like that,
5 telling the city about what occurred on January 29,
6 2016?

7 A No.

8 Q Okay.

9 Did you communicate with the city by any
10 other means that I did not go over?

11 A No.

12 Q Okay. All right.

13 If we go on in the complaint, still on
14 page 12, at the bottom, it says (as read):

15 "In February, Spencer returned
16 a second time with Jordan Wright and
17 others to observe and watch the outsiders'
18 cars parked on the bluff."

19 Is that correct?

20 A That's correct.

21 Q All right.

22 So Jordan Wright, when was the first
23 time you met him?

24 A January 29th.

25 Q Okay. And have you ever talked to

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1 Lunada Bay?

2 A How did I decide?

3 Q Good point. Bad question.

4 Why did you decide?

5 A I knew there was still swell in the
6 water. I knew that Chris still wanted to surf, and I
7 wanted to go help in any way I could, as far as making
8 it a peaceful endeavor and making sure that nothing was
9 damaged, meaning the property and the cars; and I
10 decided to go to watch the property.

11 Q How did you find out that Jordan and
12 these others were going?

13 A I think through texting with Chris, just
14 saying, you know, who was going to be there and what
15 day they were going.

16 Q From the outset, like when you decided
17 -- from the point that you decided to go in February,
18 was it always the case that you did not intend to surf?

19 A Yes.

20 Q Okay. So you only intended to go and
21 watch the outsiders' cars parked on the --

22 A I knew I wasn't going to surf that day.

23 Q All right.

24 Did you only intend to go to watch the
25 outsiders' cars parked on the bluff?

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1 MR. FRANKLIN: Vague and ambiguous.

2 THE WITNESS: And be a witness if anything
3 happened; watch cars; just kind of -- not protect the
4 area but just, you know, be a witness in case something
5 happened.

6 MS. HEWITT: Okay.

7 Q At the time that you went in February of
8 2016, had you retained Mr. Franklin and Mr. Otten?

9 A I'm sorry. Repeat that.

10 Q At the time that you went to Lunada Bay
11 in February of 2016, had you retained Mr. Franklin and
12 Mr. Otten?

13 A No.

14 Q At the time that you went in February of
15 2016, had you discussed filing a lawsuit with regard to
16 Lunada Bay with anybody other than your attorneys in
17 this matter?

18 A No.

19 Q Okay. All right.

20 When you arrived at Lunada Bay --
21 withdraw.

22 Did you advise anybody at the
23 City of Palos Verdes Estates about your February 2016
24 visit to Lunada Bay before it took place?

25 A Forgive me. Repeat.

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1 Q That's okay.

2 Before you went in February of 2016, did
3 you tell anybody at the City of PVE that you were going
4 to be there in February?

5 A Yes. Sorry. I interrupted.

6 Q That's okay.

7 A Yes, I believe I E-mailed the same
8 Captain Velez and told him we'd be out there again.

9 Q Did you get a response?

10 A Yes. And I don't recall what it was. I
11 think -- something to the effect of, "Thank you for
12 letting us know," type thing.

13 Q Were you satisfied with the response at
14 the time?

15 MR. FRANKLIN: Vague and ambiguous.

16 THE WITNESS: At the time, it was adequate to
17 what I asked for; so, I'd have to answer yes.

18 BY MS. HEWITT:

19 Q Do you recall feeling any need to follow
20 up with the captain?

21 MR. FRANKLIN: Vague and ambiguous.

22 THE WITNESS: Following -- at what point?

23 BY MS. HEWITT:

24 Q Oh, at that time when you received the
25 first response.

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1 A No, I didn't feel a need to say anything
2 else to him.

3 Q Okay.

4 Other than Captain Velez, is there
5 anybody else that you communicated with at the city
6 with regard to your impending visit to Lunada Bay in
7 February of 2016?

8 MR. FRANKLIN: Vague and ambiguous.

9 THE WITNESS: At some -- at some point -- and I
10 don't recall when it was -- I had wrote the chief or
11 E-mailed the chief, and I don't know if it was on or
12 before that time you're speaking of.

13 MS. HEWITT: Okay.

14 Q When you went in February 2016, did you
15 go by yourself and meet people there?

16 A Yes. I met Chris and Jordan and Diana
17 and Kenny.

18 Q Okay.

19 What happened when you first got there?

20 A We parked.

21 Q And what was the next thing you did?

22 A They got ready to go in the water.

23 Q And who is "they"?

24 A Chris, and I believe Jordan. I don't --
25 I don't recall -- I know more went in the water that

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1 assaulted down on the fort, and I can't remember what
2 day that was.

3 Q Okay. And you don't remember when she
4 told you that; right?

5 A No, I don't.

6 Q All right.

7 When you went in February of 2016, did
8 anybody -- withdraw.

9 Did you, in fact, watch the outsiders'
10 cars parked on the bluff?

11 A Yes.

12 Q Did anybody watch with you?

13 A Not that I recall. Like I say, I don't
14 -- there's a couple that stayed behind; so, I don't
15 know if they were -- I can only tell what I did. I
16 don't know if a couple of the guys that were there with
17 the group either stayed behind, and I don't know what
18 they did, if they were watching; but I was specifically
19 there to watch everybody's cars so ...

20 Q And what did you do in that regard?

21 A Just sat on the side of the road and
22 watched our property.

23 Q Okay.

24 Were you harassed while you were
25 watching the property?

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1 A You could -- yes. When people call you
2 the same things they called on the first visit, "kook,"
3 and, you know, "What are you doing?" Same stuff, that's
4 harassment. I feel I was harassed.

5 Q Okay. Just to be -- I'm unclear. Were
6 you harassed?

7 A Yes.

8 Q Okay.
9 Tell me what happened?

10 A Just name calling.

11 Q And who called you names?

12 A I don't know who they are.

13 Q Where were they?

14 A Just passersby real slow in their
15 trucks; in their cars; guys standing on the bluff. I
16 recall on the February date, specifically,
17 Defendant Blakeman constantly circling us, everybody
18 who was out there to surf that was not from there;
19 that's not a Bay Boy; sticking his GoPro in our faces
20 for reasons we could only determine were to identify us
21 to their group so that they would know who we are.
22 I've never had that happen. Bless you. And, you know,
23 when you go to a beach and somebody is sticking a
24 camera in your face, is it to --

25 Q When did --

1 A Who knows?

2 Q When did that occur? While you were
3 watching the cars?

4 A While we were watching the cars; when we
5 arrived; when they were getting out of the water,
6 meaning Jordan and Chris; while we were standing at our
7 cars. It was just odd.

8 Q So he stuck a GoPro in your face?

9 A Yes.

10 Q Okay.

11 Can you tell me just -- you can
12 demonstrate -- how close the GoPro got to your face?

13 A Not -- when I say, "in my face," just
14 kind of, you know, even from a distance of this far; so
15 five feet to, you know, 30, 40, 50 feet. It's just
16 odd.

17 Q Did you feel threatened by that
18 behavior?

19 A Of course.

20 Q So --

21 A When you show up to a beach and someone
22 that you know is one of the little -- the local
23 controllers/harassers of that place sticking a camera
24 in your face, why is he doing that? To intimidate you
25 and to make you feel uncomfortable.

1 considered to be the Bay Boys?

2 MR. WORGUL: Same objections.

3 THE WITNESS: In my opinion?

4 MS. HEWITT: Yes.

5 THE WITNESS: The ones that roll by slowly;
6 that don't get called names themselves; that are doing
7 the name calling --

8 MS. HEWITT: Yes.

9 THE WITNESS: -- are members of the Bay Boys.

10 MS. HEWITT: Okay.

11 Q Did you recognize any of them?

12 A No.

13 Q Okay. And, then, you described Blakeman
14 holding out a GoPro on a selfie stick. Did anything
15 else occur to you while you were watching the cars that
16 day in February?

17 A Anything else?

18 Q Any other harassment; violence?

19 A No.

20 Q Okay.

21 Any other incidents of localism?

22 MR. FRANKLIN: Vague and ambiguous.

23 THE WITNESS: Well, you know, when they get on
24 their phones as they're passing by in their car; and,
25 then, more and more start to show up, you know, I guess

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1 that would be localism through their coordinated
2 efforts, if you want to put it that way.

3 BY MS. HEWITT:

4 Q Oh, I'm not putting it any way. I'm
5 just asking you.

6 A But you did put it in such a way did
7 anything else happen? Well, sure. They're all on
8 their phones. Every time they're passing by, more and
9 more start to show up and just magically, after you see
10 these guys talking on their phones. How does -- like I
11 said, the north and the south start to get filled up
12 with guys that don't seem to get harassed. Is it by
13 magic they show up? Or, I mean, I don't know. It's --
14 it's got to be only they're talking to each other.

15 Q So when you say there's more and more
16 showing up, please tell me what numbers you're talking
17 about and over what time period you saw them start to
18 show up.

19 A You start out in the morning, again,
20 like I say, it's early. There's few numbers. And,
21 then, as the morning grows on, the numbers just grow.
22 The numbers in the water; numbers down on the fort; the
23 numbers of the guys that stand up on the bluff, on the
24 north and south end. I mean, almost like -- almost
25 like ramparts, you know, to protect the area. It's

1 really odd.

2 Q How do the numbers grow? By what
3 numbers? So, what did they start out with when you
4 first got there; and, then, how did they increase over
5 time?

6 A I would say from the morning of, you
7 know, starting out with just a few guys up on the
8 bluff, you know, going down to surf, you're looking at,
9 you know, five to six; a couple guys walking alone down
10 the path; a couple guys walking up in pairs. And,
11 then, by the end of the morning, you know, there could
12 be -- I would estimate on the south end, it seemed to
13 be the larger concentration upwards of 15 to 20 guys
14 there; and, you know, the north seemed a little --
15 that's where Mr. Blakeman was with his camera and a few
16 sporadic, you know, groups; but all in the same general
17 area. Again, 10 -- 10 to 15.

18 Q Okay. And what day of the week was
19 this?

20 A I don't recall.

21 Q Do you recall if it was a weekend?

22 A I don't believe it was.

23 Q Okay. And, then, moving on to the next
24 sentence in the complaint -- now we're on the top of
25 page 13, sir.

1 A Yes.

2 Q Okay.

3 It says (as read):

4 "Spencer observed Defendant
5 LUNADA BAY BOYS threaten and taunt
6 surfers."

7 We discussed Mr. Blakeman's actions.
8 Other than Mr. Blakeman's actions, did you witness any
9 other incidents of the Lunada Bay Boys threatening or
10 taunting surfers that day in February 2016?

11 MR. FRANKLIN: Asked and answered.

12 THE WITNESS: Well, I mean, how do I know who's
13 doing the taunting and threatening when it could be all
14 of them, when they're on their phones, and more and
15 more groups, you know, show up to kind of put this
16 stranglehold on the area, in my opinion? That's
17 taunting and threatening in itself when you have a
18 little goat trail one way to go down there, and you've
19 got two groups of 15 to 20 on each end, and you got a
20 guy going around with a selfie stick and a camera,
21 people -- people yelling at you to fucking get out of
22 there; "Why are you here? Go home. Don't surf here."
23 I don't know who they are specifically.

24 BY MS. HEWITT:

25 Q Well, I'm here to ask you about your

1 that to you?

2 A No, I don't.

3 MS. HEWITT: Okay. All right. And, then,
4 let's look at this -- what's the next exhibit?

5 THE REPORTER: Forty-two is your next exhibit.

6 MS. HEWITT: Forty-two. Okay. Here is 42,
7 which is Bates-stamped CITY1807 for those of you on the
8 phone.

9 (Defendants' Exhibit 42 was marked for
10 identification by the Certified Shorthand Reporter
11 and is enclosed herewith.)

12 BY MS. HEWITT:

13 Q This is a one-page E-mail that was
14 produced by the city, I think, in response to a
15 Public Records Act request, and it was produced
16 redacted; so, this is how I got it too.

17 Why don't you take a look at that,
18 Mr. Spencer, and tell me if you recognize what's said
19 in that E-mail.

20 A Yeah, that's the E-mail I sent to him.

21 Q Okay.

22 The date matches up with what you told
23 us today. So, let's go through this E-mail. First of
24 all, the subject line that you chose, "Lunada UC ops,"
25 can you tell me if "UC" referred to undercover?

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1 A Yes.

2 Q And "ops" is operations?

3 A Yes.

4 Q Okay. And the first sentence says

5 (as read):

6 "Sir, first of all, I'd like
7 to thank you and your dept. for the
8 response in extra patrols down at
9 Lunada Bay."

10 A Correct.

11 Q All right.

12 Did you feel thankful for extra patrols
13 down at Lunada Bay?

14 A Of course.

15 Q All right.

16 Next, you say (as read):

17 "I am active law enforcement
18 (ESPD) and have been emailing
19 Capt. Velez every time we (Aloha point
20 Facebook group - a group of non-locals)
21 venture out to the bay on a big swell day."

22 "ESPD," was that El Segundo Police
23 Department?

24 A Yes.

25 Q All right. And was it correct that you

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1 had been E-mailing Captain Velez every time you were
2 venturing out on a big swell day?

3 A On those two days, yes.

4 Q Okay. So, you were referring to those
5 two days, January and February of 2016?

6 A Correct.

7 Q All right. So, each time you E-mailed
8 them, is it correct that you witnessed extra patrols
9 being provided?

10 A Yes. In my opinion, that's what they
11 were. The officers were there because, hopefully, in
12 response to my E-mail.

13 Q All right.

14 You go on to write (as read):

15 "He has been kind enough to
16 respond, and we've been encouraged to
17 see PV officers."

18 Was that accurate?

19 A Correct.

20 Q The next paragraph states (as read):

21 "Anyway, several years ago
22 (around 02' or 03') the then chief of
23 PV asked several surrounding agencies to
24 see if officers who surfed would be willing
25 to paddle out 'on duty-undercover.'"

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1 on the board or something like that, and I don't know
2 who that was. From what I remember, I don't think they
3 were currently a member of them, but they used to be.
4 I don't remember who it was.

5 Q Okay.

6 Put that right to the side because I'm
7 going to ask you some more questions about this E-mail.

8 A Which one?

9 Q The one we just looked at. Yeah, put
10 that off, because I'm going to come back to that.
11 Going back real briefly to the complaint on page 13,
12 following the February 2016 visit to Lunada Bay, did
13 you ever return to Lunada Bay and attempt to surf?

14 A No.

15 Q Did you ever return to Lunada Bay and --
16 at all after that time?

17 A I have, yes.

18 Q All right.

19 How many times?

20 A Anywhere from three to five.

21 Q Okay.

22 On each of those visits, did you go down
23 to the beach?

24 A No. Up on the bluff only.

25 Q Okay.

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1 Did you go in your car at any time
2 because you were afraid?

3 A No.

4 Q All right.

5 At any time when you were watching the
6 cars, were you in fear of violence?

7 MR. FRANKLIN: Vague and ambiguous.

8 THE WITNESS: It is, because you know -- you
9 don't know what's going to happen when you see guys on
10 cell phones driving by real slow looking at you; and,
11 then, more guys show up. So was I worried that there
12 could be violence? Yes, there could have been.

13 MS. HEWITT: Okay.

14 Q Were you worried about bodily harm
15 occurring to yourself?

16 A Yes.

17 Q And what did you base that worry on?

18 A Guys on cell phones driving by real slow
19 and more guys showing up after you see them on cell
20 phones. Kind of crazy at a beach where violence is
21 documented for 40 years. I based it on my own fear.

22 Q And this is the fear based on the 30 to
23 40 years of documented violence?

24 A All the stories and violence and what
25 goes on down there, yeah.

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1 Q Okay.

2 A It's crazy.

3 Q Is it based at all on your January 2016
4 visit?

5 A I would say of course. How can it not
6 when you get your hand sliced open?

7 Q Okay.

8 Was it -- was it based on what or
9 anything you experienced while you were watching the
10 cars other than what you've already told me?

11 A Yes, the whole totality -- the whole
12 totality of the situation gives you fear. But, at some
13 point, you got to stand up to people that are acting
14 like bullies and, you know, deal with it.

15 Q Okay. So, I'm just trying to write down
16 all these things here. So, we talked about the 30 to
17 40 years of documented incidents; guys on cell phones
18 driving by and, then, more guys showing up; having your
19 hand cut in January. Is there anything else that I've
20 missed?

21 MR. FRANKLIN: Misstates prior testimony.

22 THE WITNESS: Guys walking around a bluff
23 throwing GoPros in your face and guys knowing --
24 potentially knowing who you are from those pictures
25 that he shares with his buddies, yeah, all that. You

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1 A I don't.

2 Q Was the last time that you E-mailed
3 Captain Velez with regard to your February 2016 visit?

4 A Again, may or may not be. I don't
5 recall the last E-mail.

6 Q Okay.

7 Other than Captain Velez and
8 Chief Kepley, have you communicated with any other
9 City of Palos Verdes Estates Police Department
10 representatives?

11 A Have I communicated with?

12 Q Right. Good point. Let's go back.

13 We talked about some that you spoke with
14 in your January 29th, 2016 visit. At the February 2016
15 visit, were there any Palos Verdes Estates
16 Police Department representatives there?

17 A Yes.

18 Q Okay. And how many did you identify --

19 A I think there was only two patrolmen and
20 a sergeant that day; but if there were more, I didn't
21 see them or don't recall.

22 Q Okay.

23 Did you see any marked police cars in
24 February?

25 A Yes.

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1 Q How many?

2 A Two or three.

3 Q Okay.

4 Did you see any motorcycles?

5 A I don't recall seeing a motorcycle in
6 February.

7 Q All right.

8 Other than in January and February of
9 2016, did you ever speak to any City of Palos Verdes
10 Estates Police Department representatives in person
11 with regard to Lunada Bay?

12 A I don't -- I don't recall. I don't
13 recall doing so.

14 Q Okay.

15 Other than E-mails with Captain Velez
16 and Chief Kepley, do you recall any other E-mail
17 communication with anybody from the City of Palos
18 Verdes Estates Police Department with regard to
19 Lunada Bay?

20 A I do not.

21 Q Okay.

22 Do you recall any phone communications
23 with anybody at the PVE Police Department with regard
24 to Lunada Bay?

25 A Again, I answered that before. I don't

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1 just out here doing our job," basically. Specifics, in
2 regards to anything that happened to me, I don't recall
3 any conversation.

4 Q Did you make any specific complaints to
5 him at that time?

6 A Not that I recall.

7 Q Now, in your complaint, if we look on
8 page 13 still, Mr. Spencer, towards the end of the top
9 paragraph. We're looking at lines 11 and 12. Do you
10 see that, sir?

11 A Okay.

12 Q All right. It says (as read):

13 "Defendants' conduct has caused
14 Spencer pain and suffering, loss of sleep,
15 emotional distress, and mental anguish."

16 Is that an accurate statement?

17 A Yes.

18 Q All right.

19 With regard to the pain and suffering
20 that you allege, can you describe how you have suffered
21 that pain and suffering?

22 A Yeah, it's kind of a letdown. You just
23 feel sad that, you know, things that maybe you'd hoped
24 as a human that really weren't happening down there,
25 actually, when they did happen to you, kind of -- I

1 don't know. I don't want to say a depression 'cause --
2 but just a sadness, you know, that, hey, it actually
3 happened; and kind of suffered, in the sense of, you
4 know, it just kind of a -- it's kind of a bummer that
5 it happened. You know, I'm -- in my sense, I'm
6 suffering that I'm not able to go enjoy a place that I
7 have a God-given right to go enjoy without being run
8 over; called names; told to leave; so, in that sense,
9 yeah, that's a suffering to me, I mean.

10 Q Have you experienced any crying episodes
11 as a result of the allegations in the complaint?

12 A Crying?

13 Q Yes.

14 A I don't see any crying in the complaint.

15 Q That's just my question.

16 A Oh, I have not cried.

17 Q Okay.

18 Have you experienced any headaches as a
19 result of the allegations in the complaint?

20 A No. I don't recall any headaches.

21 Q All right.

22 Did you experience any loss of sleep?

23 A Yes.

24 Q On how many occasions?

25 A I don't recall specific amount; but when

1 off-duty weapon.

2 Q Okay. That didn't sound smug at all.

3 A Okay. I didn't want to.

4 Q Not at all.

5 A They always say, "revolver." Yeah, we
6 used to carry those back in the '70s.

7 Q I'm sure it's all TV.

8 All right. With regard to the pain and
9 suffering, lack of sleep, emotional distress, and

10 mental anguish, do you attribute any of those
11 specifically to the actions of Chief Kepley?

12 A Yes. I'm disappointed in him. I'm
13 disappointed that him and his department are not taking
14 care of the problem, yes.

15 Q And you're disappointed because
16 Chief Kepley has not eliminated the problem, or do you
17 mean something else by taking care of it?

18 A Yes, eliminated the problem.

19 Q All right.

20 You would agree that extra patrols were
21 provided in January and in February of 2016 when you
22 asked for them; right?

23 A Wholeheartedly agree.

24 MR. FRANKLIN: Vague and ambiguous; calls for
25 speculation; move to strike.

1 MS. HEWITT: Did you move to strike, Counsel?

2 MR. FRANKLIN: I did.

3 MS. HEWITT: On what basis?

4 MR. FRANKLIN: Lack of foundation. It was
5 vague and ambiguous and calls for speculation.

6 MS. HEWITT: Okay.

7 Q So is it true that you believe that
8 extra patrols were provided at the January 2016 visit
9 to Lunada Bay?

10 MR. FRANKLIN: Same objection.

11 THE WITNESS: I believe extra patrol was sent
12 down there, yes.

13 BY MS. HEWITT:

14 Q All right. Same question for the
15 February 2016 visit.

16 MR. FRANKLIN: Same objection.

17 THE WITNESS: Yes.

18 MS. HEWITT: Okay.

19 Q All right. With regard to your alleged
20 pain -- withdrawn.

21 With regard to the pain and suffering,
22 loss of sleep, emotional distress, and mental anguish
23 that you've discussed here today, do you attribute any
24 of that to the City of Palos Verdes Estates?

25 A In the sense of the city employs the

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1 A No.

2 Q Why not?

3 A I don't feel comfortable right now.

4 Q What is it about right now that you
5 don't feel comfortable about?

6 A I don't feel the problem has been
7 addressed by the police; by the city. I believe that
8 there's still Bay Boy members that are going to be
9 there, and I don't want to get into any type of
10 confrontation.

11 Q Okay. And the only thing that's
12 different between now and the last time that you went
13 there and surfed is that you also have a lawsuit
14 against all these people right now as well; correct?

15 MR. FRANKLIN: Misstates -- excuse me. Vague
16 and ambiguous; lacks foundation.

17 THE WITNESS: That's not the only thing
18 different.

19 BY MR. WORGUL:

20 Q What else is different?

21 A Time has passed. I don't know what
22 their states of mind are. You know, what their
23 feelings are, if they're hostile. I don't know. I
24 don't want to even deal with any of that. I just want
25 to go surf somewhere peaceful, and I don't feel I can

1 me.

2 Q Have you ever advised someone on how to
3 do a citizen's arrest?

4 A On how to do it?

5 Q Yes.

6 A Typically, what I advise somebody is
7 when they state they want to make one or, say, a
8 misdemeanor has been committed not in my presence, I
9 just -- the phone. I didn't know if that was something
10 coming up.

11 I'll advise them that they can make the
12 citizen's arrest. I will facilitate the arrest; take
13 that person into custody for them; either issue them a
14 citation, where it's warranted, or take the person to
15 jail if it's warranted.

16 Q So, you have an understanding of how
17 that process works?

18 A I -- I've done it several times; so, I
19 think so.

20 Q Is there any reason that at any point in
21 time that you've had some sort of problem at
22 Lunada Bay, you have not effected a citizen's arrest?

23 A Yes.

24 Q What's the reason?

25 A I didn't think it would go anywhere with

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1 the DA.

2 Q Okay.

3 How would you know that unless you did
4 it?

5 A I wouldn't.

6 Q But would I be correct in saying that
7 you consciously knew you had the option to do it if you
8 desired to do it whenever you were present at
9 Lunada Bay, and there was other law enforcement
10 present?

11 A Yes.

12 Q And you chose not to; correct?

13 A Well, I have that discretion. I chose
14 not to.

15 Q You said there's a channel at
16 Lunada Bay. Where's the channel?

17 A Well, a channel is a moving thing with
18 tide and positioning of the wave, depending on the
19 conditions; so, a "channel," again, in parenthesis --
20 sorry -- to describe a channel, is a place where the
21 wave is not breaking at a critical point, where you
22 would paddle out to and into the channel to get back
23 out to what's called the "lineup," where you sit and
24 wait for the waves.

25 Q Do you know where the channel is at

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1 MR. WORGUL: Okay.

2 MS. LUTZ: Can we take a break for a second?
3 Just like two minutes.

4 MS. HEWITT: Is that okay with you,
5 Mr. Spencer?

6 THE WITNESS: Yes.

7 (A recess was taken at 5:30 p.m.
8 until 5:39 p.m.)
9 (Whereupon, Mark C. Fields, Esq.,
10 left the proceedings.)
11

12 FURTHER EXAMINATION

13 BY MS. HEWITT:

14 Q All right. Counsel has kindly allowed
15 me to ask one question I forgot to ask earlier.

16 A Okay.

17 Q With regard to he asked you what a
18 "kook" meant, and I think you said something about not
19 being from around the area or such. Did you -- were
20 you ever asked by anybody at the City of Palos Verdes
21 Police Department where you lived whenever you talked
22 to them about anything about Lunada Bay?

23 A Not that I recall.

24 Q Okay. Thank you.

25 MR. WORGUL: I'll want to attach it.

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1 BY MS. HEWITT:

2 Q Would anything have barred you -- and I
3 don't know because, again, I'm a civilian who doesn't
4 know. Would anything have barred you from, in the
5 process of effectuating a citizen's arrest on the
6 person who sliced your hand, for instance, in the
7 course of effectuating a citizen's arrest, telling them
8 that you, in fact, are an El Segundo Police Department
9 officer?

10 MR. FRANKLIN: Objection: vague and ambiguous;
11 incomplete hypothetical; assumes facts not in evidence.

12 THE WITNESS: My capacity as a police officer
13 -- I wouldn't -- I wouldn't even bring that up.

14 BY MS. HEWITT:

15 Q Does anything bar you from telling them
16 that in the process of conducting a citizen's arrest?

17 MR. FRANKLIN: Objection: assumes facts not in
18 evidence; incomplete hypothetical.

19 THE WITNESS: Not that I know of.

20 BY MS. HEWITT:

21 Q Okay. When you spoke to the
22 City of Palos Verdes police officers at Lunada Bay, did
23 you tell them you were an El Segundo Police Department
24 officer?

25 MR. FRANKLIN: Vague and ambiguous.

1 THE WITNESS: I didn't have to tell one of
2 them. I used to work with one of them.

3 BY MS. HEWITT:

4 Q Okay. Other than Gaunt, who I believe
5 you said you saw in February; right?

6 A Right.

7 Q In the January 2016 time period, did you
8 tell anybody -- tell any of the PVE Police Department
9 officers that you were an El Segundo police officer?

10 MR. FRANKLIN: Objection to the extent it
11 misstates prior testimony.

12 THE WITNESS: I don't believe I did.

13 MS. HEWITT: Okay.

14 Q Did any of the alleged Lunada Bay Boys
15 ever ask you where you were from?

16 A No.

17 Q No. Okay. Okay.

18 Did anybody at the City of Palos Verdes
19 Estate Police Department ever refuse to take a report
20 from you?

21 A No.

22 MS. HEWITT: Okay. That's all I have.

23 ////

24 ////

25 ////

1 MS. LUTZ: Yes.

2 THE REPORTER: Mr. Franklin, did you want a
3 certified transcript?

4 MR. FRANKLIN: Yes.

5 (Deposition proceedings concluded at
6 6:35 p.m. Declaration under penalty of perjury on the
7 following page hereof.)
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1 Certification of Court Reporter

2 Federal Jurat

3
4 I, the undersigned, a Certified Shorthand
5 Reporter of the State of California do hereby certify:

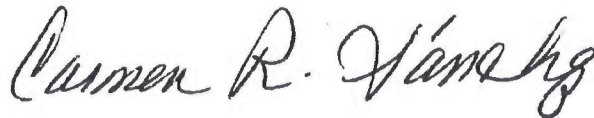
6 That the foregoing proceedings were taken
7 before me at the time and place herein set forth;
8 that any witnesses in the foregoing proceedings, prior
9 to testifying, were placed under oath; that a verbatim
10 record of the proceedings was made by me using machine
11 shorthand which was thereafter transcribed under my
12 direction; further, that the foregoing is an accurate
13 transcription thereof.

14 That before completion of the deposition, a
15 review of the transcript [X] was [] was not requested.

16 I further certify that I am neither
17 financially interested in the action nor a relative or
18 employee of any attorney of any of the parties.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21 Dated: October 21, 2016

22
23 

24 Carmen R. Sanchez

25 CSR No. 5060

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6 I do solemnly declare under penalty of
7 perjury, under the laws of the State of California,
8 that the foregoing is my deposition under oath; that
9 these are the questions asked of me and my
10 answers thereto; that I have read same and have made
11 the necessary corrections, additions, or changes to
12 my answers that I deem necessary.

13 In witness thereof, I hereby subscribe my
14 name this _____ day of _____, 20_____.
15
16
17
18

19 _____
20 Witness Signature
21
22
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Mark Velez

From: Jeff Kepley
Sent: Saturday, March 05, 2016 9:11 AM
To: Mark Velez
Subject: Fwd: Lunada UC ops

REDACTED

FYI.

Jeff Kepley

Begin forwarded message:

From: '
Date: March 4, 2016 at 10:12:35 PM PST
To: jkepley@pvestates.org
Subject: Lunada UC ops

Sir, first of all, I'd like thank you and your dept. for the response in extra patrols down at Lunada Bay. I am active law enforcement (ESPD) and have been emailing Capt. Velez every time we (Aloha point Facebook group-a group of non-locals) venture out to the bay on a big swell day. He has been kind enough to respond, and we've been encouraged to see PV officers.

Anyway, several years ago (around 02' or 03') the then chief of PV asked several surrounding agencies to see if officers who surfed would be willing to paddle out "on duty-undercover."

I was approached along with a few more of our officers and we were excited to help out. For reasons unknown, nothing ever materialized. I think it would be worth another shot and be very effective. I'm sure my chief would assist in letting the few of us that do surf help out should you ever want to try something like that.

It really is too hard to observe anything that really goes on down there from the bluff. Although, I understand two younger officers actually made their way down to the fort and were actually able to finally witness/document a 415. You know, and I know, the DA will most likely reject it, but kudos to them for their descent from the bluff to the beach.

Thanks for reading, and possibly considering a UC operation as I've suggested. As a side issue, I have recently been made aware of, and feel a brotherly sense of duty, to make you aware of some upcoming legal actions in the works by a very large, non-profit foundation heavily invested in coastal matters (this is separate from the coastal commission thing). There are attorneys plotting strategies as we speak, to basically force the city (consent decree type) to make Lunada Bay very "public access." This could mean many things (signage, trail improvement, parking, etc...). Just wanted to give you a heads up so your not blindsided.

Again, thanks for the response.

DEFENDANT'S EXHIBIT NO. 42
 For Identification
 Witness: C.E. Spencer
 Date: 10/11/2017 Page No: 1PS
 Carmen K. Sanchez, CSR No. 5060